

REMARKS

This is a response to the final Office Action of July 7, 2009. Prior to entry of this response, claims 57-58 and 60-89 were pending. No claims are amended, added, or cancelled by way of this response. Accordingly, claims 57-58 and 60-89 will remain pending upon entry of this response. No new matter is added.

The final Office Action rejected claims 57-58 and 60-89 under 35 U.S.C. § 103 over a combination of U.S. Patent No. 5,956,695 ("Carrithers") and U.S. Patent No. 7,346,575 ("Ahles").

As an introductory matter, the undersigned attorney believes that a telephone interview would be beneficial to expeditiously advance this application to issue. However, the undersigned has been unable to reach the Examiner via telephone to discuss this application, and thus respectfully requests that the Examiner telephone him at (206) 359-6196 at the Examiner's convenience.

Applicant respectfully submits that claim 57 is allowable at least because the applied references fail to disclose or suggest "receiving a first instruction authorizing the payment-based transaction from an account holder to the counterparty" in combination with "automatically returning the first instruction to the payment queue for later re-evaluation *based upon payments received by the account holder from the counterparty*" (emphasis added), as recited by applicant's claim 57.

In making the instant rejection, the Office Action admits that Carrithers fails to "explicitly teach" the second quoted feature of applicant's claim 57. (Office Action, page 3.) However, the Office Action asserts that "if an amount on the customer's debit or credit account is insufficient to cover a particular transaction, the customer may add additional funds to his/her debit card or request an additional credit limit in his/her credit card thus providing funds to cover the particular transaction." (Office Action, pages 3-4, emphasis added.) The Office Action further asserts that Ahles discloses "selectively

delaying financial transactions," whereby "[a] further re-evaluation is made prior to an approval or decline when the customer submits additional funds in their account." (Office Action, page 4, emphasis added.)

While applicant does not concede the accuracy of the above-quoted assertions, applicant respectfully submits that these assertions are not relevant to applicant's claim 57.

Specifically, independent claim 57 includes the features "receiving a first instruction authorizing the payment-based transaction from an account holder to the counterparty" and "automatically returning the first instruction to the payment queue for later re-evaluation *based upon payments received by the account holder from the counterparty*" (emphasis added). It appears that the Office Action has mapped the claimed "account holder" to the customer, but the Office Action does not indicate whether a merchant, verification service, or other party maps to the claimed "counterparty." Moreover, the Office Action fails to provide any indication of how the applied references might be read to disclose or suggest that the alleged "re-evaluation [is] based upon payments received by the account holder from the counterparty" (emphasis added), e.g., from the merchant to the customer, or from the verification service to the customer. Instead, in each of the examples proffered by the Office Action, it is the customer who takes action prior to the alleged "re-evaluation." (Office Action, pages 3-4.)

The undersigned has reviewed both Carrithers and Ahles and found no disclosure or suggestion of Applicant's above-quoted claim features.

As previously discussed with the Examiner, Carrithers is generally directed to a "debit card system for implementing an incentive award program." (Carrithers, Abstract.) The undersigned finds no disclosure or suggestion of applicant's above-quoted claimed features in Carrithers, and in fact, the Office Action does not point any particular section of Carrithers to support this rejection.

With respect to Ahles, the undersigned notes that Ahles is directed to "a method and system which selectively delays the financial transaction until further transaction information may be obtained and processed for review and evaluation in borderline or marginal risk assessment situations." (Ahles, col. 2, lines 23-27.) "In one aspect, additional risk assessment and evaluation may include verifying the existence of funds in the customer's check issuing bank account in a manner as described in FIG. 1. Furthermore, obtaining additional financial information about the customer in the state 240 may also comprise obtaining information about the customer's recent check writing history[.]" (Ahles, col. 15, lines 23-29.)

The undersigned finds no disclosure or suggestion of applicant's above-quoted claimed features in Ahles, and notes that Ahles "additional risk assessment and evaluation" is discussed with reference to a customer's financial history instead of "payments received by the account holder from the counterparty[.]" as applicant claims.

Accordingly, applicant respectfully submits that the applied references fail to disclose or suggest "receiving a first instruction authorizing the payment-based transaction from an account holder to the counterparty" in combination with "automatically returning the first instruction to the payment queue for later re-evaluation *based upon payments received by the account holder from the counterparty*" (emphasis added), as recited by applicant's claim 57. Applicant further respectfully submits that independent claim 57 is allowable for at least the above-discussed reasons.

Dependent claim 58 and 60-78 depend from claim 57 and are respectfully submitted to be allowable for at least that reason.


Applicant respectfully submits that claims 79-89 are allowable at least for reasons similar to the reasons as discussed above in connection with claims 57-58 and 60-78.

Conclusion

In view of the foregoing, the pending claims are patentable over the applied art. The applicants accordingly request reconsideration of the application and a mailing of a Notice of Allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to contact Davin Chin at (206) 359-8000.

Respectfully submitted,
Perkins Coie LLP

Date: September 8, 2009


Davin Chin
Registration No. 58,413

Correspondence Address:

Customer No. 25096
Perkins Coie LLP
P.O. Box 1247
Seattle, Washington 98111-1247
(206) 359-8000